

Town of Enfield  
Special Town Board Meeting Minutes  
Enfield Community Building  
Wednesday, July 27, 2016  
6:30 p.m.

Present: Town Supervisor Ann Rider, Town Councilperson Virginia Bryant, Town Councilperson Mike Carpenter, Town Councilperson Henry Hansteen, Town Councilperson Michael Miles, Town Clerk Alice Linton.

Supervisor Rider opened the regular meeting at 6:30 p.m. by leading the assemblage in the Pledge of Allegiance to the Flag.

**Privilege of the Floor:**

Marguerite Wells, project manager of the Black Oak Wind Farm, stated she sent an e-mail to town board members regarding decommissioning bonds. In order to address concerns of bonding, she suggested the bonds would only be for one year, but long-term they would use a letter of credit or cash escrow account. She proposed that \$180,000 per turbine would be a good amount to use for decommissioning bonding.

**Presentation by Michael C. Cannon, Vice-President of Commercial Banking, Tompkins Trust Company, on Bonding, Other Forms of Security, Irrevocable Letters of Credit, and Undertakings:**

Mr. Cannon gave a brief presentation and likened wind farm decommissioning to decommissioning of gravel banks. If a project is abandoned, a letter of credit or bond would be called and reclamation would commence. They often get cash security. This is a common thing and used for many purposes.

Councilperson Hansteen asked if it was the bank's responsibility to make sure the letter of credit or bond is backed by something. Mr. Cannon stated the town would be backed by the bank so they would not need to worry about the credit worthiness of the wind farm.

Councilperson Miles asked if a bank changed hands if the security would carry over to the new bank. Mr. Cannon said it would.

Councilperson Carpenter asked if a letter of credit and bond could be used interchangeably. Mr. Cannon stated usually a bond is issued by an insurance company and an irrevocable letter of credit by a bank.

Councilperson Carpenter asked if a bond is called in because someone did not follow through with their obligations, would the issuer sue the person who bought the bond. Mr. Cannon stated he is more familiar with one year renewable letters of credit. If the letter is cancelled, there needs to be 90 days notice given. If 90 days notice is given, they can say "pay us now" and then he deals with the customer. The town would want to have language that says the money would be delivered the next day.

Councilperson Carpenter asked if there were issues that might happen during the decommissioning process where the bank might not pay, such as environmental catastrophes as in spilled fluid from the turbine. Mr. Cannon responded the bank pays the full amount of the security to the town. If a

contractor is hired to decommission the turbines, he would want to have coverage for environmental catastrophes. If all of the money is not used for decommissioning, the agreement would likely state the excess would be returned to the wind farm.

Councilperson Miles asked if the amount of the security could be adjusted. Mr. Cannon stated the amount can be adjusted at any time.

Mr. Cannon left the meeting at this time.

Councilperson Miles stated he felt the \$180,000 per turbine estimate he presented at the July 13, 2016 town board meeting was a good figure to start with.

Councilperson Carpenter believes that if there is a job that is unusual, the proposals received by contractors may be higher as there is less competition and contractors often aren't as eager to get the job. This should be kept in mind when considering future increases in turbine decommissioning.

Marguerite Wells would like the language in a short agreement to state bonding would be for one year and then that could be swapped out for another form of security. She will e-mail board members with proposed language in the next week or so.

Councilperson Miles asked about road repairs after decommissioning.

Supervisor Rider stated wording is in the proposed Road Use Agreement that would kick in at the time of decommissioning.

Councilperson Carpenter feels if the town wants bonding to repair roads after decommissioning, that would need to be in the agreement now. He also mentioned the only reason for a bond is if the wind farm doesn't take down the turbines themselves, but the repair of the roads would need to be done after all equipment is gone.

Marguerite Wells mentioned that after 10 years of operation, the turbines would be sold as turbines. After 30 years of operation, they would be sold as scrap. She will come up with figures of the number of trips going over the roads if 90% of the foundation stays in place.

Councilperson Carpenter feels the Road Use Agreement needs a financial instrument to back up decommissioning. The dollar amount should be put in the decommissioning plan for repair of roads after decommissioning. The town needs to be covered with a bond or letter of credit to pay for this.

Supervisor Rider will rework her resolution with more current figures and will put the Road Use Agreement on next month's agenda.

### **Next Steps in Finalizing the Black Oak Wind Farm Supplemental Environmental Impact Statement:**

Supervisor Rider stated she spoke with Kathy Spencer of LaBella and Marguerite Wells of the Black Oak Wind Farm. Haley Aldrich, the engineering firm for the Black Oak Wind Farm has not done any draft work yet. She understands Councilperson Carpenter is concerned about moving forward, but feels it is up to the project to present a draft.

Marguerite Wells stated she has been working on the comments, instead of Haley Aldrich, but the work is not yet completed.

Councilperson Carpenter stated he received a letter from Kathy Spencer this afternoon which stated the project sponsor has not authorized Haley Aldrich to do any work on the preparation of a draft of the SEIS. So at this time no draft has been started. He wrote Kathy Spencer questioning why that impacts our ability to work on this. He asked why the town isn't working on this also. He would like to have a plan of how the town can work with LaBella.

Councilperson Miles stated there are hundreds of pages of comments that need to be sorted and categorized. The town needs to decide what they want LaBella to do with these. The town hired LaBella because they are experts and town board members are not.

Councilperson Carpenter wants to be sure LaBella understands the depth of the study that is needed. It is important to try and find solutions for real problems.

Councilperson Miles feels LaBella could do some sorting of truths - not pro or against - and provide feedback to the town.

Councilperson Hansteen suggested citing the top 5 concerns and writing down proposed solutions.

Councilperson Carpenter felt that was a good suggestion for the findings, but the SEIS should respond to all comments. He thinks the town board should talk to Kathy Spencer of LaBella and see where she stands and how comments should be organized. Meetings should be held to start going through the process.

All town board members felt they would like to meet with Kathy Spencer at a special meeting.

Councilperson Carpenter suggested putting another extension on the process.

Marguerite Wells stated she would have the comments organized in another couple of weeks.

**Tax Levy Limit:** Supervisor Rider reported the New York State Comptroller has set the tax cap limit for municipalities at .68% for 2017 budgets. She plans to stay under this tax cap by giving no raises to employees and including no new improvements or new purchases in the 2017 budget.

### **Privilege of the Floor:**

Dawn Drake of Enfield asked why discussions of Road Use Agreements and Decommissioning of turbines continue when Black Oak Wind Farm has not provided locations for proposed turbines or a location of a substation. She also stated she has seen a major impact on birds since the clear cutting on Black Oak Road.

Marcus Gingerich of Enfield asked if there should be an inclusion in the Road Use Agreement and/or Decommissioning Agreement of the process if there is a catastrophic failure of a turbine that would need to be replaced. This language needs to be in black and white and spelled out clearly.

Councilperson Carpenter responded that he would like to have the Decommissioning Agreement provide coverage from start to finish of the project.

Marcus Gingerich also asked if LaBella, the engineering firm hired by the Town of Enfield for Black Oak Wind Farm matters, had worked on other wind farm environmental impact statements.

Supervisor Rider stated they work in other states on wind farms. She will get the numbers and provide them.

**Adjournment:** Supervisor Rider moved, with a second by Councilperson Carpenter, to adjourn at 8:12 p.m. Motion carried.

Respectfully submitted,

Alice Linton, Enfield Town Clerk